

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

-

WRIT PETITION NO : 19228 of 2004

Between:

Thota Rambabu, S/o Sreerama Murthy,
R/o Pedalanka Post, Kolluru Mandal, Guntur District

..... PETITIONER

AND

1 The Government of A.P.,

Panchayat Raj and Rural Development (PTS.III) Department,
Secretariat Buildings, Hyderabad rep.by its Principal Secretary

2 The District Panchayat Officer-cum-Member Convenor, District Level Committee,
Guntur, Guntur District

3 N.Radhakrishna, S/o Charyulu,
R/o D.No.23-35-46, Lakshmipuram, Satyanarayanapuram, Vijayawada,
Krishna District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, particularly one in the nature of Writ of Mandamus, declaring order of the 1st respondent in Memo No.7894/Pts.III/A3/2004-3, dated 08-10-2004 as arbitrary, illegal, violative of principles of natural justice and the Fundamental Right guaranteed under Articles 14 and 19 of the Constitution of India apart from contrary to the A.P. Minor Mineral Concession Rules, 1966 as amended by G.OMs.No.1 Industries and Commerce Department dated 1-1-2001 and consequently declare that the 2nd respondent not to permit the 3rd respondent from

using the unauthorised ramp at 12.800 Km of Reach No.4, Godavarru Village, Duggirala Mandal of Krishna River Right Flood Bank.

Counsel for the Petitioner:MR.M.VIJAYA SARATHI REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.3: MR. D.V.SITARAMA MURTHY

The Court at the stage of admission made the following ORDER:

The petitioner, who was a leaseholder of reach No.3, objected for the change of notified ramp of reach No.4 in favour of the leaseholder-third respondent. In respect of the same, the second respondent-District Panchayat Officer, Guntur, by proceedings vide R.O.C.No.230/2001-G2/R-4, dated 30-07-2004, allowed the leaseholder of reach No.4 to close the existing ramp and construct the new ramp at 12.800 KM based on the report submitted by the Executive Engineer, dated 27-07-2004 on a temporary basis. Aggrieved by the same, the petitioner filed an appeal before the first respondent-Principal Secretary, Panchayat Raj and Rural Development (PTS.III) Department, Andhra Pradesh, Hyderabad. In the said appeal, on 03-08-2004, the first respondent initially stayed further proceedings pursuant to the proceedings dated

30-07-2004 and called for a detailed report from the second respondent. In the said report, it was stated that on the technical advice of the River Conservator given in pursuance of the directions issued by this Court in WP.No.3853 of 2004, the District Level Committee accorded permission to the leaseholder of reach No.4 to utilise the ramp at 12.800 km instead of the ramp at 17.200 km. Thereafter, taking into consideration the said report and the records, on 08-10-2004, the first respondent vacated the interim stay granted, earlier, in favour of the petitioner by it. Questioning the same, the present writ petition is filed.

Heard the learned counsel for the petitioner as well as the learned counsel for the third respondent.

This Court in **THE NARAYANAVALASA GRAM PANCHAYAT, NARASANNAPETA TALUK, SRIKAKULAM DISTRICT v. THE GOVERNMENT OF ANDHRA PRADESH, PANCHAYATRAJ DEPARTMENT, HYDERABAD** categorically held that when the Government entertained the revision, granted stay and after calling the records, disposed of the revision on merits, the same cannot be

interfered with but when the Government calls for a report after granting stay in favour of the petitioner, pending the revision, a right is accrued to him and such stay cannot be vacated basing on the said report and acting upon the said report, if the stay is vacated, the same will amounts to violation of principles of natural justice and the same cannot be sustained.

In view of the above, the impugned order passed by the Government is set aside and the matter is remitted to the Government to provide an opportunity to the petitioner on the report received and pass appropriate orders after complying the requirements of natural justice.

The writ petition is accordingly disposed of. No costs.

26th OCTOBER, 2004.

kvni

To

1 The Principal Secretary, Government of A.P.,

Panchayat Raj and Rural Development (PTS.III) Department,
Secretariat Buildings, Hyderabad.

2 The District Panchayat Officer-cum-Member Convenor, District Level Committee,
Guntur, Guntur District

3 Two CCs to the Government Pleader for Panchayat Raj and Rural Development,
A.P.High Court Buildings, Hyderabad (OUT)

4 Two CD copies.